United Nations S/2005/737

Security Council

Distr.: General
25 November 2005

Original: English

Letter dated 25 November 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Eritrea to the United Nations addressed to the President of the Security Council

Upon instructions from my Government, I have the honour to transmit the attached press release issued by the Ministry of Foreign Affairs of the State of Eritrea on 24 November 2005 in response to the recent Security Council resolution 1640 (2005) on the Eritrea-Ethiopia border conflict (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Tesfa Alem **Seyoum**
Chargé d'affaires a.i.

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Annex to the letter dated 25 November 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Eritrea to the United Nations addressed to the President of the Security Council

Press release

Security Council undermines its moral authority

The Security Council adopted another deplorable resolution (resolution 1640 (2005)) yesterday on the border conflict between Eritrea and Ethiopia. Although the Algiers Peace Agreement, legally guaranteed by the United Nations Security Council, and the fundamental principles of the Charter of the United Nations have been grossly and repeatedly violated by Ethiopia, the Security Council is threatening to invoke, for the first time, Article 41 of the Charter of the United Nations to impose economic and diplomatic sanctions, essentially against Eritrea.

This lopsided resolution underscores one glaring fact: it is not international law and the Charter of the United Nations that govern the conduct of the Security Council but sheer power politics and the narrow interests of major powers.

As it is well known:

- In July 2002, Ethiopia violated the Algiers Comprehensive Peace Agreement and the Charter of the United Nations to establish, under the watch of the United Nations Mission in Ethiopia and Eritrea (UNMEE), unlawful settlements in the sovereign Eritrean territory of Dembe Mengul. This gross breach of the Peace Agreement was fully ascertained by an independent fact-finding mission. The report of the fact-finding mission was subsequently submitted to the Security Council, which passed resolution 1430 (2002) requesting Ethiopia to dismantle the settlements within 30 days. In what was to become a predictable pattern, Ethiopia refused to comply with the terms of resolution 1430 (2002) while the Security Council failed to take remedial action.

- In September 2003, the Prime Minister of Ethiopia formally and arrogantly informed the Security Council that his regime would not abide by the "final and binding decisions of the Security Council". This was a flagrant breach of article 4.15 of the Algiers Peace Agreement, which states: "The parties agree that the delimitation and demarcation determinations of the Commission shall be final and binding. Each Party shall respect the border so determined, as well as the territorial integrity and sovereignty of the other party". The Security Council failed to take any action against this gross violation of the most fundamental kernel of the Algiers Peace Agreement. The Secretary-General went further, with the apparent acquiescence of the Security Council, to placate Ethiopia by appointing a Special Envoy to explore the options of "an alternative mechanism" as Ethiopia had requested.

- Emboldened by the Security Council inaction, Ethiopia intensified its unlawful conduct to obstruct and frustrate the operations of the Boundary Commission. Among other things, Ethiopia withdrew its liaison officers, refused to pay its dues and boycotted a meeting in London convened by the Boundary Commission in February 2005 to finalize the Demarcation Directions. As will

be recalled, the Boundary Commission was established and partially funded by the United Nations in accordance with the Algiers Peace Agreement. Ethiopia's actions further contravened article 4.14 of the Agreement, which states: "The parties agree to cooperate with the Commission, its experts and other staff in all respects during the process of delimitation and demarcation". Again, the Security Council failed to take meaningful remedial action and confined itself to pass toothless resolutions.

- In March 2005, the Boundary Commission was finally compelled to close its offices in Eritrea and Ethiopia. The Commission underlined, in its sixteenth report to the Security Council, that: "The Commission must conclude by recalling that the line of the boundary was legally and finally determined by its Delimitation Decision of 13 April 2002. Though undemarcated, this line is binding upon both Parties ... Conduct inconsistent with this boundary line is unlawful". Again the Security Council failed to take action, and in particular, to invoke Chapter VII to take punitive measures against Ethiopia as provided for by article 4 of the Algiers Agreement and general principles of the Charter of the United Nations.

It is against this backdrop of repeated violations by Ethiopia of the Algiers Peace Agreement and deplorable abdication of responsibility by the Security Council that resolution 1640 (2005) must be seen and gauged. In a perverted logic, the Security Council will not invoke, as it should, Chapter VII if and as Ethiopia continues to violate the Algiers Peace Agreement and the United Nations Charter to forcibly occupy sovereign territories of a Member State of the United Nations. Instead, the Security Council has chosen to focus on derivative and secondary clauses and arrangements to impose sanctions against Eritrea.

This misguided action only undermines the moral and legal authority of the Security Council. It goes beyond abdication of legal and moral responsibility in the border conflict between Eritrea and Ethiopia to create a dangerous precedent to condone the violation of the rule of law and the integrity of arbitration processes. It will not promote the maintenance of regional peace and security, which is the central mandate of the Security Council, but sow the seeds of further tension and conflict in our region.

Ministry of Foreign Affairs
Asmera
24 November 2005